

TIGARD MUNICIPAL CODE

Chapter 7.100 EXCLUSION FROM TIGARD PUBLIC LIBRARY

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7.100.010 Exclusion From Tigard Public Library

A. A person may be excluded from the Tigard Public Library for a period of ninety (90) days if the person commits one of the following acts:

1. Theft of Tigard library materials or unlawful detention of Tigard library property;
2. Acts that constitute any degree of any of the following crimes or violations under state law or this code, if committed within the Tigard Public Library or on Tigard Public Library grounds:
 - a. Assault;
 - b. Stalking;
 - c. Criminal Mischief;
 - d. Riot or disorderly conduct;
 - e. Menacing;
 - f. Recklessly endangering another;
 - g. Harassment;
 - h. Unlawfully applying graffiti;
 - i. Possession of a firearm or dangerous weapon in a public building;
 - j. Criminal trespass.

3. Refusing to leave the library when told to do so by library personnel or a police officer, or returning to the library on the same calendar day after being told to leave. (Ord. 01-13 §8).

B. In addition to the above, a person is subject to exclusion or may otherwise have their library privileges restricted or suspended for a period of up to ninety (90) days in the event they, (or a person under their control or direction) has been issued at least two (2) Tigard Library warning notices within any ninety (90) day period for any of the following conduct:

1. Sleeping using bedding, sleeping bag or other sleeping matter in the Tigard Public Library unless such use has been approved in advance by the Director of Library Services;

2. Use of Tigard Public Library facilities and/or equipment for activities unrelated to the purposes of the Library as those purposes may be determined by the Tigard Library Board.

3. Loud or excessive noise or use of amplified recording or sound production equipment including but not limited to radios, tape recorders, compact disc (CD) players such that the sound produced thereby is audible five (5) feet from the device unless such use has been approved in advance by the Director of Library Services.

C. As used in subsection (A) above, the term "library privileges" means the ability to obtain the free use of any printed material, pictures, sound recordings or symbols as may be kept in whatever form or manner, be it owned or controlled by the Tigard Public Library or other public or private libraries with which Tigard may through agreement or otherwise have access. (Ord. 96-15)

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7.100.020 Persons Authorized To Issue Exclusion Or Warning Notices.

The Chief of Police and the Director of Library Services are hereby designated as the persons-in-charge of the Tigard City Library for purposes of issuing exclusion notices in accordance with this Chapter. Either the Chief or the Director of Library Services may authorize other Police or Public Library personnel to issue exclusion notices consistent with this Chapter and, in addition to the ability to authorize personnel issuance of exclusion notices under this Chapter, the Director of Library Services may also authorize personnel under his or her direction and control to issue Tigard Public Library Warning Notices. (Ord. 96-15)

7.100.030 Issuance Of Exclusion Notices Or Warning Notices.

Within thirty (30) days of the actions listed in Section 7.100.010.A as a basis for exclusion or within thirty (30) days of the issuance of a second warning notice, the City may issue a written exclusion notice excluding the person from the Tigard Public Library. The notice shall specify that the person is to be excluded from the Tigard Public Library, the period of exclusion, and the time the exclusion is to commence. The notice shall provide information concerning the right to appeal the exclusion notice to the Civil Infractions Officer. The City employee issuing the notice shall ask the person to whom the exclusion notice is issued to sign an acknowledgement of the notice. If the person to whom the notice is issued refuses to sign, the person issuing the notice shall make a written record of the refusal. The exclusion notice may be issued at the time of arrest, if an arrest is made.

At the time of the occurrence of any conduct listed in Section 7.100.010.B, the City may issue a written warning notice. The notice shall describe the reason why the warning is issued and state that

a second notice within ninety (90) days shall be grounds for exclusion or loss of library privileges. The warning notice shall contain information concerning the right to seek vacation of the order by submitting a written appeal to the Director of Library Services within five (5) days of the issuance of the warning notice. If the Director of Library Services receives a written appeal of a warning notice, the Director of Library Services may vacate the notice on a determination that the actions of the person to whom the notice was issued did not justify a warning notice. (Ord. 01-13 §9, Ord. 96-15)

7.100.040 Right Of Appeal.

The individual to whom an exclusion notice is issued shall have the right to an appeal from the issuance of the notice.

A. An appeal of the exclusion must be filed, in writing, within five (5) calendar days of the notices issuance with either the office of the Director of Library Services or the Chief of Police. The notice of appeal shall include the following:

1. the appellant's name, address and telephone number;
2. a concise statement as to why the issuance of the exclusion notice was in error; and,
3. a copy of the notice of exclusion appeal form.

B. The exclusion shall not take effect during the pendency of the appeal. In the event no appeal is properly and timely filed, then the exclusion shall take effect on the sixth calendar day following the issuance of the notice.

C. At the hearing on appeal, the City shall have the burden to show by a preponderance of the evidence that the exclusion is justified by this

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chapter.

D. Copies of any and all documents in its control which are intended to be used by the City at the hearing shall be made available to the appellant at least two (2) days in advance of the hearing. (Ord. 01-13 §10 & §11, Ord. 96-15)

7.100.050 Variances.

Variances from the exclusion may be granted at any time during the exclusion by either the Chief of Police or the Director of Library Services. (Ord. 96-15)■